

RECEIPT NUMBER

519281

ORIGINAL

7

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

JOHN M. OKROS,

Plaintiff,

vs.

JUDGE : Battani, Marianne O.
DECK : S. Division Civil Deck
DATE : 01/07/2005 @ 09:42:34
CASE NUMBER : 5:05CV60006
CMP JOHN M OKROS V ANGELO
IAFRATE CONSTR (DH)

ANGELO IAFRATE CONSTRUCTION
COMPANY, a Michigan corporation,

Defendant.

MAGISTRATE JUDGE MORGAN

Teresa J. Gorman (P61001)
Kenneth J. Hardin II (P44681)
Hardin & Associates, P.C.
30150 Telegraph Road
Suite 345
Bingham Farms, MI 48025
(248) 723-9900

U.S. DIST. COURT CLERK
EAST DIST. MICH.
DETROIT-PSG

'05 JAN -7 A9:54

FILED

COMPLAINT

Plaintiff, JOHN M. OKROS, by and through his attorneys, HARDIN &
ASSOCIATES, P.C., states:

JURISDICTION AND PARTIES

1. This suit is brought pursuant to the Americans With Disabilities Act, 42 USC §12101, et seq.
2. This court has jurisdiction pursuant to 28 USC §1331 and 42 USC §12107.
3. Plaintiff filed a charge of employment discrimination on the basis of disability with the Equal Employment Opportunity Commission (EEOC) within 300 days

of the commission of the unlawful employment practice alleged in this Complaint.

4. Plaintiff received notice of the right-to-sue letter from the EEOC on October 25, 2004, and has filed this Complaint within 90 days of receiving the EEOC's notice of the right to sue.

5. Plaintiff is a citizen of the United States and resides in Harrison Township, Michigan.

6. Defendant is a Michigan corporation doing business in Warren, Michigan.

7. Plaintiff was Defendant's employee within the meaning of the Americans With Disabilities Act, 42 USC §12101, et seq.

8. Defendant meets all of the requirements for employer status under the Americans With Disabilities Act, 42 USC §12101, et seq.

9. The amount in controversy exceeds \$75,000.00, exclusive of interest, costs, and attorney fees.

10. The events giving rise to this cause of action occurred in the Eastern District of Michigan. Accordingly, venue lies in the United States District Court for the Eastern District of Michigan, Southern Division, under 28 USC §1391(b).

STATEMENT OF FACTS

11. Plaintiff incorporates by reference paragraphs 1-10.

12. Plaintiff was hired by Defendant in or about 1995, resigned his employment for a period of time, and was then rehired by Defendant in April 2001 as a field engineer and an equipment operator.

13. Plaintiff consistently performed his job duties in an above average manner.

14. Plaintiff is a qualified individual with a disability; i.e. Tourette's Syndrome.

15. On or about October 4, 2001, Defendant's officer and agent and Plaintiff engaged in a telephone conversation wherein Defendant's agent specifically stated that Plaintiff was being terminated because Defendant regarded him as a liability due to his Tourette's Syndrome.

**COUNT I
VIOLATIONS OF
THE AMERICANS WITH DISABILITIES ACT, 42 USC §12101, et seq.**

16. Plaintiff incorporates by reference paragraphs 1-15.

17. At all relevant times, Plaintiff was an individual with a disability within the meaning of the Americans With Disabilities Act, 42 USC §12102(2). Specifically, Plaintiff has a physical or mental impairment that substantially limits one or more of his major life activities, has a record of the impairment, and is regarded by Defendant as having the impairment.

18. Plaintiff is a qualified individual with a disability as that term is defined in the Americans With Disabilities Act, 42 USC §12111(8). Plaintiff is an individual who, with or without a reasonable accommodation, can perform the essential functions of his job as a field engineer or equipment operator at Defendant's company.

19. Defendant's decision to terminate Plaintiff specifically because it regarded Plaintiff as a "liability" because of his disability constitutes discrimination against Plaintiff in respect to the terms, conditions and/or privileges of employment. This conduct constitutes a violation of the Americans With Disabilities Act. 42 USC §12112.


20. Defendant conducted itself with malice or with reckless indifference to Plaintiff's federally protected rights.

21. As a direct and proximate result of Defendant's discrimination, Plaintiff has suffered lost wages, benefits, loss of employment opportunities; mental and emotional distress; humiliation and embarrassment; loss of career opportunities; and loss of the ordinary pleasures of everyday life, including the right to seek and pursue a gainful occupation of choice.

WHEREFORE, Plaintiff JOHN M. OKROS prays that this Honorable Court grant the following remedies:

- A. Declare that the aforementioned practices and actions of Defendant constitute unlawful employment practices in violation of the Americans With Disabilities Act, 42 USC §12101, et seq.
- B. Award Plaintiff all lost wages, past and future, to which he is entitled;
- C. Award Plaintiff compensatory damages;
- D. Award Plaintiff punitive and exemplary damages;
- E. Award Plaintiff liquidated damages;
- F. Award Plaintiff reasonable attorney's fees, costs and interest;
- G. Award such other relief as this Court deems just and proper.

HARDIN & ASSOCIATES, P.C.

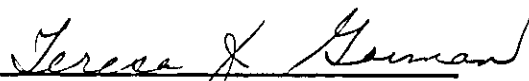

Teresa J. Gorman (P61001)
Kenneth J. Hardin II (P44681)
30150 Telegraph Road, Suite 345
Bingham Farms, MI 48025
(248) 723-9900

Dated: January 3, 2005

JURY DEMAND

Plaintiff demands a jury trial.

HARDIN & ASSOCIATES, P.C.


Teresa J. Gorman (P61001)
Kenneth J. Hardin II (P44681)
30150 Telegraph Road, Suite 345
Bingham Farms, MI 48025
(248) 723-9900

Dated: January 3, 2005

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

JOHN M. OKROS

(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF
(EXCEPT IN U.S. PLAINTIFF CASES)

Macomb

DEFENDANTS

05-60006

ANGELO IAFRATE CONSTRUCTION
COMPANY, a Michigan Corp.COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT
(IN U.S. PLAINTIFF CASES ONLY)NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE
TRACT OF LAND INVOLVED

(C) ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER)

ATTORNEYS (IF KNOWN)

JUDGE MARIANNE O. BATTANI
MAGISTRATE JUDGE MORGAN

II. BASIS OF JURISDICTION

(PLACE AN X IN ONE BOX ONLY)

☐ 1 U.S. Government
Plaintiff☒ 3 Federal Question
(U.S. Government Not a Party)☐ 2 U.S. Government
Defendant☐ 4 Diversity
(Indicate Citizenship of
Parties in Item II)

III. CITIZENSHIP OF PRINCIPAL PARTIES

(For Diversity Cases Only)

(PLACE AN X IN ONE BOX
FOR PLAINTIFF AND ONE BOX FOR DEFENDANT)Citizen of This State ☐ 1 ☐ 1Citizen of Another State ☐ 2 ☐ 2Citizen or Subject of a
Foreign Country ☐ 3 ☐ 3Incorporated or Principal Place
of Business in This State ☐ 4 ☐ 4Incorporated and Principal Place
of Business in Another State ☐ 5 ☐ 5Foreign Nation ☐ 6 ☐ 6

IV. CAUSE OF ACTION

(CITE THE US CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE A BRIEF STATEMENT OF CAUSE. DO NOT CITE JURISDICTIONAL STATUTES
UNLESS DIVERSITY)

Americans with Disabilities Act-- 42 USC 12101.

V. NATURE OF SUIT

(PLACE AN X IN ONE BOX ONLY)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury- Med Malpractice <input type="checkbox"/> 365 Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Food & Drug <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R R & Truck <input type="checkbox"/> 650 Airline Regs <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt Relations <input type="checkbox"/> 730 Labor/Mgmt Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395H) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC (405(g)) <input type="checkbox"/> 863 DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes <input type="checkbox"/> 871 IRS Third Party 26 USC 7609	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC Rates/ etc. <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and corrupt Organiza- tions <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes <input type="checkbox"/> 990 Other Statutory Actions
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Accommodations <input type="checkbox"/> 444 Welfare <input checked="" type="checkbox"/> 448 Other Civil Rights PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence 28 USC 2255 <input type="checkbox"/> 530 Habeas Corpus <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights			

VI. ORIGIN

(PLACE AN X IN ONE BOX ONLY)

☒ 1 Original
Proceeding☐ 2 Removed from
State Court☐ 3 Remanded from
Appellate Court☐ 4 Reinstated or
Reopened☐ 5 Transferred from
another district
(specify)☐ 6 Multidistrict
Litigation☐ 7 Appeal to District
Judge from
Magistrate
JudgmentVII. REQUESTED IN
COMPLAINT:CHECK IF THIS IS A CLASS ACTION
☐ UNDER F.R.C.P. 23

DEMAND \$

75,000 +

Check YES only if demanded in complaint:
JURY DEMAND: ☒ YES ☐ NOVIII. RELATED CASE(S)
IF ANY

None

JUDGE

DOCKET NUMBER

DATE 1/5/05

SIGNATURE OF ATTORNEY OF RECORD

UNITED STATES DISTRICT COURT

PURSUANT TO LOCAL RULE 83.11

1. Is this a case that has been previously dismissed?

☐ Yes
☒ No

If yes, give the following information:

Court: _____

Case No.: _____

Judge: _____

2. Other than stated above, are there any pending or previously discontinued or dismissed companion cases in this or any other court, including state court? (Companion cases are matters in which it appears substantially similar evidence will be offered or the same or related parties are present and the cases arise out of the same transaction or occurrence.)

☐ Yes
☒ No

If yes, give the following information:

Court: _____

Case No.: _____

Judge: _____

Notes:
